

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 07/2021)

FILED

JUL 11 2023

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE Eastern DISTRICT OF TEXAS
Sherman DIVISION

Marcus Dale Smallwood # 9270
Plaintiff's Name and ID Number
125 Brown Ave. Lamar Co. Jail
Paris Tx. 75460
Place of Confinement

CASE NO.

4:23cv640

(Clerk will assign the number)

MAZZANT | DURRETT

v. Lamar County Sheriffs Department
125 Brown Ave
Paris Tx. 75460

Defendant's Name and Address

Paris Police Department
2910 Clarksville
Paris Tx. 75460

Defendant's Name and Address

Lamar County
119 North Main St.
Paris Tx. 75460

Defendant's Name and Address

(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$52.00 for a total fee of **\$402.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$52.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES ☒ NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: N/A
2. Parties to previous lawsuit:
 Plaintiff(s) N/A
 Defendant(s) N/A
3. Court: (If federal, name the district; if state, name the county.) N/A
4. Cause number: N/A
5. Name of judge to whom case was assigned: N/A
6. Disposition: (Was the case dismissed, appealed, still pending?) N/A
7. Approximate date of disposition: N/A

II. PLACE OF PRESENT CONFINEMENT: Lamar Co. Jail, 125 Brown Ave, Paris, Tx. 75460

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure?

N/A ☒ YES ☒ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: ~~XXXXXXXXXX~~ Marcus Dale Smallwood #9270
125 Brown Ave. L.C.S.D.
Paris, Tx. 75460

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Scott Cass, Sherriif, Lamar Co. Sherriif Dept.
125 Brown Ave, Paris, Tx. 75460

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Failure to properly train & make aware of current laws.

Defendant #2: Jash Crawford, Deputy, Lamar Co Sherriif Dept.
125 Brown Ave, Paris, Tx. 75460

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Pulled over for non-traffic violation, illegal search & seizure

Defendant #3: "John Doe #1", Deputy, Lamar Co Sherriif Dept.
125 Brown Ave, Paris Tx. 75460

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Pulled over for non-traffic violation, 4th amend violation

Defendant #4: Lt. Cole Sain, Officer, Paris Police Department
2910 Clarksville Str, Paris Tx. 75460

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Pulled over for non-traffic violation, 4th amend violation

Defendant #5: Sgt. Leigh Foreman, Officer, Paris Alice Department
2910 Clarksville Str. Paris Tx. 75460

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Pulled over for illegal traffic stop, 4th amend violation

3(b)

Continuation of Page 3(a)

- Defendant #1: (Scott Cass) - Failure to investigate and fix or punish illegal actions by his Deputies. 14th amend. violations. Derelict of duty
- Defendant #2: (Josh Crawford) - Failed to inform my i was pulled over. Failed to ask consent to search me or vehicle. No Miranda warning. 4th amend violation
- Defendant #3: ("John Doe #1") - Failed to inform why i was pulled over. Failed to ask consent to search me. 4th amend. violation
- Defendant #4: (Lt. Cole Sain) - Lying by omission, falsifying police and arrest report. Didn't ask consent to search me or vehicle. No Miranda warning. Threatened me by placing his hand on his gun. Used surprise and fear to intimidate me upon approach of me in the vehicle. Didn't inform me why i was stopped. 4th amend violation.
- Defendant #5: (Sgt. Leigh Foreman) - Failed to inform why i was stopped. Failed to ask consent to search me or vehicle. No Miranda warning. Police brutality. 4th amend violation.
- Defendant #6: "John Doe #2" Officer, Paris Police Department
2910 Clarksville Str. Paris, Tx. 75460
- Failed to inform why i was stopped. 4th amend. violation. No Miranda warning.

3(c)

Continued from Page 3(b)

Defendant #7: Richard Salter, Paris Police Chief, Paris Police Department, 2910 Clarksville St. Paris, Tx, 75460

- Failure to properly train and make aware of current laws, Failure to investigate and fix or punish illegal actions by his Officer's. 14th amend violation. Derelict of duty.

Defendant #8: Gary Young, Lamar County District Attorney, Lamar County Court House 119 North Main St. Paris, Tx, 75460

- 14th amend. violation. Derelict of duties to inform the power's that be of disition's of higher courts rulings to insure police/officer's of the law can perform their job's legaly. Threatened me with federal charges if i didn't plea out to his last offer of 40 year's by "insinuation" "40 year's is my best offer or i will see where the feds stand." Manipulating my new lawyer to not file any motions on my behalf because "the fed's are picking my case up in June". So Due-Process violation as well. That's why i'm no-longer on this court docket.

3-(d)

Continued from 3-(c)

Defendant #9: Anson Amis, Justice of the Peace,
119 North Main Str. #B-30, Paris, Tx. 75460
- 14th amend. violation. Derelict of duty.
Not understanding the law he's
accessing guilty verdicts and/or fines
to. In representing the law he's breaking
the law. Ignorance of the law is no
excuse. Mistake in the law can't
be used either as of Texas Court of Crim
appeals November 17th 2022 or by the
court of Eastern District of Texas,
Beaumont Division, January 4th
Honorable Judge Brone. Both courts
have controlling precedents over this
lower-court.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

On January 19th 2023, around 11:00am i was pulled over going North on Hwy 271, three miles north of Paris, Texas, by two unmarked trucks and one sheriff cruiser.

When i stopped the car was approached by Lt. Cole Sain. He told me to place my hands on the steering. Then approached my window and asked me if i stole this car? I said no. He asked if i had a drivers license and insurance and

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

All charges dropped. Plus related violations because of this dismissed. Monetary value of time plus violations.

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

Marcus Dale Smallwood, Billy Harris

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

TDCJ# 566260, 658924, 1859702, Fed# 27258-078

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ☐ YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): N/A

2. Case number: N/A

3. Approximate date sanctions were imposed: N/A

4. Have the sanctions been lifted or otherwise satisfied? ☐ YES ☒ NO

4(b)

Continued from Page 4(a)

cont. - i said i do, it does. He asked who the car belonged to and i said Lisa. He asked Lisa who? I said i didn't know, she just went thru a divorce. He reaches in and unlock's the door and tells me to step out. When i do im pushed against the car, hand's up. I Sgt. Leigh Foreman reaches down the back of my pants, grab's my underwear, pants + belt with his hand and lifts me up on my toe's and inform's Josh Crawford, "go ahead, i got him".

Josh Crawford pat's me down removing everything on my person and alligidly methamphamin. I believe Josh Crawford cuffed me and handed me Deputy "John Doe #1".

Deputy John Doe #1 patted me down and may have read me my Miranda warning.

Officer "John Doe #2" was searching the vehicle with the above mentioned Defendant's except Deputy John Doe #1 who was transporting me to Lamar Co Jail. When i go in front of Anson Amis for a bond is the first i hear of the traffic

4(c)

Continued from Page 4(b)

conti -

violation "failure to maintain a single lane for the stop. I pled No Contest. Anson Amos found me guilty and charged me \$190, then sent in a paper saying time served.

Gary Young made me a 50 year offer and then a 40 year offer and both times threatened me with a federal charge if I didn't except his offer's. Manipulated my lawyer and my Due Process by telling him "the feds" are picking up my charges in June. With him not staying current on the interpretation of the law's and making the power's that be aware of said interpretations brings in the last two defendants.

Scott Cass for Derelict of Duty. His Deputies aren't trained in what's a traffic violation and what isn't.

Richard Satter for Derelict of Duty. His Officer's aren't trained in what's a traffic violation and what isn't.

C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES _____ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): N/A
2. Case number: N/A
3. Approximate date warning was issued: N/A

Executed on: 07.03.2023
' DATE

Marcus Dale Smallwood
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 3rd day of July, 20 23.
(Day) (month) (year)

Marcus Dale Smallwood
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.